

1
2 UNITED STATES DISTRICT COURT
3 WESTERN DISTRICT OF WASHINGTON
4 AT SEATTLE

5 AMBER ABSHIRE, individually and } No.: _
6 on behalf of all others similarly situated, }
7 Plaintiff, } **COMPLAINT**
8 vs. }
9 CONVERGENT OUTSOURCING } **JURY TRIAL DEMANDED**
10 INC.,
11 LVNV FUNDING LLC,
12 AND JOHN DOES 1-25.
13 Defendant(s)
14

15 Plaintiff Amber Abshire ("Plaintiff"), by and through her attorneys,
16 Brubaker Law Group PLLC, as and for her Complaint against Defendants
17 Convergent Outsourcing Inc. ("Convergent") and LVNV Funding LLC.,
18 ("LVNV"), individually and on behalf of a class of all others similarly situated,
19 pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon
20 information and belief of Plaintiff's counsel, except for allegations specifically
21 pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

INTRODUCTION/PRELIMINARY STATEMENT

1. Congress enacted the Fair Debt Collection Practices Act (the “FDCPA”) in 1977 in response to the “abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors.” 15 U.S.C. §1692(a). At that time, Congress was concerned that “abusive debt collection practices contribute to the number of personal bankruptcies, to material instability, to the loss of jobs, and to invasions of individual privacy.”

2. Congress explained that the purpose of the Act was not only to eliminate abusive debt collection practices, but also to “insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged.” Id. § 1692(e). “After determining that the existing consumer protection laws were inadequate.” Id. § 1692(b), Congress gave consumers a private cause of action against debt collectors who fail to comply with the Act. Id. § 1692k.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this class action pursuant to 15 U.S.C. § 1692 et. seq. and 28 U.S.C. § 2201. The Court has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. § 1337(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331(b)(2) as this is where the Plaintiff resides as well as where a substantial part of the events or omissions giving rise to this claim occurred.

NATURE OF THE ACTION

5. Plaintiff brings this class action on behalf of a class of Washington consumers under §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act (“FDCPA”), and

6. Plaintiff is seeking damages and declaratory relief.

PARTIES

7. Plaintiff is a resident of the State of Washington, County of Whatcom, with an address of 5278 Mosquito Lake Road, Deming, Washington 98244.

8. Defendant Convergent is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA with an address at 800 SW 39TH Street Suite #100, Renton, WA, 98057 and may be served with process

upon the C T Corporation System, 711 Capitol Way S Ste 204, Olympia, WA 98501.

9. Upon information and belief, Defendant Convergent is a company that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.

10. Defendant LVNV is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA with an address at 6801 S Cimarron Rd, Suite 424-J, Las Vegas, NV, 89113-2273, and may be served with process upon the Corporation Service Company , its registered agent for service of process, at 300 Deschutes Way SW Ste 304, Tumwater, WA, 98501.

11. Upon information and belief, Defendant LVNV is a company that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.

12. John Does 1-25, are fictitious names of individuals and businesses alleged for the purpose of substituting names of Defendants whose identities will be disclosed in discovery and should be made parties to this action.

CLASS ALLEGATIONS

COMPLAINT - 4

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14506 NE 184th Pl
Woodinville, WA 98072
206-335-8746
michael@brubakerlawgroup.com

1 13. Plaintiff brings this claim on behalf of the following case, pursuant to
2 Fed. R. Civ. P. 23(a) and 23(b)(3).
3

4 14. The Class consists of:
5

- 6 a. all individuals with addresses in the State of Washington;
7
- 8 b. to whom Defendant Convergent sent a collection letter attempting
9 to collect a consumer debt;
- 10 c. on behalf of Defendant LVNV;
- 11 d. containing settlement offers;
- 12 e. without disclosing that if a partial payment is made along with
13 signed, written acknowledgement, it will restart the statute of
14 limitations;
- 15 f. which letter was sent on or after a date one (1) year prior to the
16 filing of this action and on or before a date twenty-one (21) days
17 after the filing of this action.

18 15. The identities of all class members are readily ascertainable from the
19 records of Defendants and those companies and entities on whose behalf they
20 attempt to collect and/or have purchased debts.
21

22 16. Excluded from the Plaintiff Class are the Defendants and all officer,
23 members, partners, managers, directors and employees of the Defendants and
24
25

1 their respective immediate families, and legal counsel for all parties to this
2 action, and all members of their immediate families.
3

4 17. There are questions of law and fact common to the Plaintiff Class,
5 which common issues predominate over any issues involving only individual
6 class members. The principal issue is whether the Defendants' written
7 communications to consumers, in the forms attached as Exhibit A, violate 15
8 U.S.C. §§ 1692e and 1692f.
9

10 18. The Plaintiff's claims are typical of the class members, as all are
11 based upon the same facts and legal theories. The Plaintiff will fairly and
12 adequately protect the interests of the Plaintiff Class defined in this complaint.
13 The Plaintiff has retained counsel with experience in handling consumer
14 lawsuits, complex legal issues, and class actions, and neither the Plaintiff nor
15 her attorneys have any interests, which might cause them not to vigorously
16 pursue this action.
17

18 19. This action has been brought, and may properly be maintained, as a
19 class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil
20 Procedure because there is a well-defined community interest in the litigation:
21

22 a. **Numerosity:** The Plaintiff is informed and believes, and on that
23 basis alleges, that the Plaintiff Class defined above is so numerous
24 that joinder of all members would be impractical.
25

- b. **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff Class and those questions predominate over any questions or issues involving only individual class members. The principal issue is whether the Defendants' written communications to consumers, in the forms attached as Exhibit A violate 15 USC §1692e and 1692f.
- c. **Typicality:** The Plaintiff's claims are typical of the claims of the class members. The Plaintiffs and all members of the Plaintiff Class have claims arising out of the Defendants' common uniform course of conduct complained of herein.
- d. **Adequacy:** The Plaintiff will fairly and adequately protect the interests of the class members insofar as Plaintiff have no interests that are adverse to the absent class members. The Plaintiff is committed to vigorously litigating this matter. Plaintiff has also retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither the Plaintiff nor her counsel have any interests which might cause them not to vigorously pursue the instant class action lawsuit.
- e. **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because

1 individual joinder of all members would be impracticable. Class
2 action treatment will permit a large number of similarly situated
3 persons to prosecute their common claims in a single forum
4 efficiently and without unnecessary duplication of effort and
5 expense that individual actions would engender.
6

7 20. Certification of a class under Rule 23(b)(3) of the Federal Rules of
8 Civil Procedure is also appropriate in that the questions of law and fact common
9 to members of the Plaintiff Class predominate over any questions affecting an
10 individual member, and a class action is superior to other available methods for
11 the fair and efficient adjudication of the controversy.

12 21. Depending on the outcome of further investigation and discovery,
13 Plaintiff may, at the time of class certification motion, seek to certify a class(es)
14 only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).

15 **FACTUAL ALLEGATIONS**

16 22. Plaintiff repeats, reiterates and incorporates the allegations contained
17 in paragraphs numbered above herein with the same force and effect as if the
18 same were set forth at length herein.

19 23. Some time prior to February 5, 2019, an obligation was allegedly
20 incurred to Chase Bank USA, N.A. by Plaintiff.
21
22

1 24. The Chase Bank USA, N.A. obligation arose out of transactions in
2 which money, property, insurance or services were the subject of the
3 transactions.
4

5 25. The alleged Chase Bank USA, N.A. obligation is a “debt” as defined
6 by 15 U.S.C. §1692a(5).
7

8 26. Chase Bank USA, N.A. is a “creditor” as defined by 15 U.S.C.
9 §1692a(4).
10

11 27. Defendant LNVN purportedly purchased the alleged Chase Bank
12 USA, N.A. debt.
13

14 28. Defendant LNVN, contracted with the Defendant Convergent to
15 collect the alleged debt.
16

17 29. Defendants collect and attempt to collect debts incurred or alleged to
18 have been incurred for personal, family or household purposes on behalf of
19 creditors using the United States Postal Services, telephone and internet.
20

Violation I – February 5, 2019 Collection Letter

21 22. On or about February 5, 2019, Defendant Convergent sent Plaintiff a
23 collection letter (the “Letter”) regarding the alleged debt currently owed to
24 Defendant LNVN. **See Exhibit A.**
25

26 27. The letter states:
28

“The law limits how long you can be sued on a debt. Because of the age of your debt, LVNV Funding LLC cannot sue you for it and LVNV Funding LLC cannot report it to any credit reporting agency.”

32. The letter contains a settlement offer as well as invitation to call for further payment options.

33. The Defendants fail to inform the consumer that making a payment along with a signed, written acknowledgement will restart the statute of limitations for a lawsuit to occur.

34. The letter fails to inform the consumer of the true ramifications of making a payment with a written acknowledgement.

35. The Defendants' omission could likely lead to the Plaintiff making a partial payment with a signed, written acknowledgement and thereby unknowingly cause her to restart the statute of limitations.

36. As a result of Defendants' deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15
U.S.C. §1692e *et seq.*

37. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

38. Defendants' debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §1692e.

39. Pursuant to 15 U.S.C. §1692e, a debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.

40. Defendants violated said section

a. by omitting material information creating a false and misleading representation of the status of the debt and the true ramifications of making a payment in violation of §1692e(10); and

b. by falsely representing the character, amount or legal status of the debt in violation of §1692e(2)(A);

43. By reason thereof, Defendants are liable to Plaintiff for judgment that Defendants' conduct violated Section 1692e et seq. of the FDCPA, actual damages, statutory damages, costs and attorney's fees.

COUNT II
**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15
U.S.C. §1692f *et seq.***

1 41. Plaintiff repeats, reiterates and incorporates the allegations contained
2 in paragraphs above herein with the same force and effect as if the same were
3 set forth at length herein.
4

5 42. Defendants' debt collection efforts attempted and/or directed towards
6 the Plaintiff violated various provisions of the FDCPA, including but not
7 limited to 15 U.S.C. § 1692f.
8

9 43. Pursuant to 15 U.S.C. §1692f, a debt collector may not use any unfair
10 or unconscionable means in connection with the collection of any debt.
11

12 44. Defendants violated this section by omitting material information that
13 gave Plaintiff a false understanding of the proper legal status of the debt and the
14 ramifications of specific actions.
15

16 45. By reason thereof, Defendants are liable to Plaintiff for judgment that
17 Defendants' conduct violated Section 1692f et seq. of the FDCPA, actual
18 damages, statutory damages, costs and attorneys' fees.
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DEMAND FOR TRIAL BY JURY

23 46. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff
24 hereby requests a trial by jury on all issues so triable.
25
26
27
28

PRAYER FOR RELIEF

2 **WHEREFORE**, Plaintiff Amber Abshire, individually and on behalf of all others
3 similarly situated, demands judgment from Defendants Convergent Outsourcing,
4 Inc. and LVNV Funding, LLC and as follows:

- 5 1. Declaring that this action is properly maintainable as a Class Action
6 and certifying Plaintiff as Class representative, and Michael Brubaker, Esq. as
7 Class Counsel;
- 8 2. Awarding Plaintiff and the Class statutory damages;
- 9 3. Awarding Plaintiff and the Class actual damages;
- 10 4. Awarding Plaintiff costs of this Action, including reasonable
11 attorneys' fees and expenses;
- 12 5. Awarding pre-judgment interest and post-judgment interest; and
- 13 6. Awarding Plaintiff and the Class such other and further relief as this
14 Court may deem just and proper.

15
16
17 DATED this 22nd day of July, 2019.

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22
23
24 Respectfully submitted,
25 By: /s Michael
26 Brubaker
27 Michael Brubaker,
28 WSBA #49804
 Brubaker Law Group
 PLLC

COMPLAINT - 13

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COMPLAINT - 14

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